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EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in the Lok Sabha on 1st September, 1954:—

BILL* No. 35 OF 1954

A Bill to validate the levy, assessment and collection in the State of Madhya Bharat of certain taxes on income and on profits of business due in respect of the periods referred to in sub-section (1) of section 13 of the Finance Act, 1950.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Madhya Bharat Taxes on Income (Validation) Act, 1954.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) 'Finance Act' means the Finance Act, 1950 (XXV of 1950);

(b) 'relevant Madhya Bharat law' means any of the following laws which may be applicable in the circumstances of a particular case, that is to say,—

(i) The Indore Industrial Tax Rules, 1927;

(ii) The Indore Excess Profits Duty Order, 1944;

(iii) The Gwallor War Profits Ordinance, Samvat 2001;

and

*The President has, in pursuance of clause (1) of article 117 and clause 1) of article 274 of the Constitution of India, recommended to the Lok Sabha the introduction of the Bill.

(iv) any law in force immediately before the commencement of the Finance Act in that part of the State of Madhya Bharat which corresponds to the territory comprised in the former Indian State of Ratlam, in so far as such law relates to a tax on profits of business;

(c) 'relevant period' means either of the periods referred to in sub-section (1) of section 13 of the Finance Act, according as the tax is a tax on income or a tax on profits of business.

3. Validation of action taken in connection with the levy, assessment and collection of certain taxes on income.—Notwithstanding anything contained in the first proviso to sub-section (1) of section 13 of the Finance Act, all proceedings taken, assessments made and other acts and things done (including orders made) by or before any officer, authority, tribunal or court acting or purporting to act under the relevant Madhya Bharat law in connection with the levy, assessment and collection of any tax due under any such law in respect of the relevant period shall be valid and shall be deemed always to have been valid, and shall not be called in question on the ground only that such proceedings were not taken, assessments were not made or acts or things were not done by or before the corresponding officer, authority, tribunal or court referred to in the said proviso.

4. Continuance of pending proceedings.—If immediately before the commencement of this Act any proceedings of the nature referred to in section 3 are pending before any officer, authority, tribunal or court acting or purporting to act under the relevant Madhya Bharat law, such proceedings may, notwithstanding anything contained in the first proviso to sub-section (1) of section 13 of the Finance Act, be continued and completed in accordance with the provisions of the relevant Madhya Bharat law, and the provisions of the said proviso shall not apply and shall be deemed never to have applied in relation to any such proceedings.

STATEMENT OF OBJECTS AND REASONS

Section 13 of the Finance Act, 1950, while providing for the repeal in Part B States of laws relating to income-tax, super-tax and tax on profits of business saved the operation of the local laws in so far as they related to the levy, assessment and collection of such taxes for any period prior to the 31st day of March, 1949. The section, however, provided that the levy and collection of any such arrears should be made by the corresponding authorities under the Indian Income-tax Act, 1922. This latter provision was overlooked by the Madhya Bharat Government which continued to recover the arrears with the aid of their own officer. The present Bill seeks to validate such levy and collection and also provides for the continuance and completion of pending proceedings by State authorities in accordance with the provisions of the relevant State laws.

C. D. DESHMUKH.

NEW DELHI;

The 26th August, 1954.

BILL* No. 37 OF 1954

A Bill to provide for the extension of certain taxation laws to the State of Jammu and Kashmir and for matters connected therewith.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954.

2. Extension of certain taxation laws to Jammu and Kashmir.—

(1) The following Acts, namely:—

- (a) the Sea Customs Act, 1878 (VIII of 1878),
- (b) the Indian Income-tax Act, 1922 (XI of 1922),
- (c) the Land Customs Act, 1924 (XIX of 1924),
- (d) the Government Trading Taxation Act, 1926 (III of 1926),
- (e) the Indian Tariff Act, 1934 (XXXII of 1934),
- (f) the Central Excises and Salt Act, 1944 (I of 1944),
- (g) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), and
- (h) the Estate Duty Act, 1953 (34 of 1953),

and all rules and orders made thereunder which are in force immediately before the commencement of this Act are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

(2) With effect from the commencement of this Act, the Acts mentioned in the Schedule shall be amended as specified in column 4 thereof.

(3) The Finance Act, 1951 (XXIII of 1951) and the First Schedule thereto, in so far as they have been made applicable in relation to income-tax and super-tax for the financial year 1954-55 by the Finance Act, 1954 (17 of 1954), shall have effect as if the words “excluding the State of Jammu and Kashmir” and the word, brackets, figure and letter “or (3E)” had been omitted from Parts I and II of the First Schedule to the Finance Act, 1951.

(4) Sections 6 and 10 of the Finance Act, 1954 (17 of 1954), which impose certain additional duties of customs and excise respectively shall apply to, and have effect in, the State of Jammu and Kashmir as they apply to, and have effect in, the rest of India.

The President has, in pursuance of clauses (1) and (3) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the Lok Sabha, the introduction and consideration of the Bill

3. Continuance of existing duty on motor spirit for a certain period.—The Government of the State of Jammu and Kashmir may continue to levy and collect for a period of ten years from the 14th day of May, 1954, a duty at the rate of four annas per imperial gallon, or at such other lower rate per imperial gallon as the State Government may, by notification in the Official Gazette, specify in this behalf, on all motor spirit imported into the State otherwise than in petrol tanks by a supplier in the State or by an authorised agent on his behalf.

4. Construction of references to laws not in force in Jammu and Kashmir.—Any reference in any Act mentioned in section 2 to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

5. Repeals.—Save as otherwise provided in section 6, the following laws are hereby repealed, namely:—

- (a) the Matches (Excise Duty) Act, Svt. 1992 (IV of Svt. 1992),
- (b) the Mechanical Lighters (Excise Duty) Act, Svt. 1992 (V of Svt. 1992),
- (c) the Sugar (Excise Duty) Act, Svt. 2000 (VI of Svt. 2000),
- (d) the Tobacco (Excise Duty) Ordinance, Svt. 2001 (V of Svt. 2001),
- (e) the Income-tax Act, Svt. 2007 (X of Svt. 2007), and
- (f) the Jammu and Kashmir Customs Act, Svt. 1958, with the exception of the following provisions, namely:—

(i) section 25 in so far as it authorises the State Government to prohibit the importation or exportation of newspapers or books as defined in the Jammu and Kashmir State Press and Publications Act of Svt. 1989,

(ii) sections 25A, 25B and 25C, and

(iii) any other provision contained in the said Act which may be necessary or relevant for the purpose of carrying into effect the provisions contained in the sections referred to in sub-clauses (i) and (ii).

6. Savings.—(1) Notwithstanding the repeal by section 5 of any of the laws referred to therein—

(a) the Jammu and Kashmir Customs Act, Svt. 1958, shall continue to have effect for the purposes of the levy, assessment, collection or refund of the duty on motor spirit referred to in section 3, or the levy, assessment and collection of any duty due in respect of the import or export before the 14th day of May, 1954, of any article into or from the State of Jammu and Kashmir, or for the purpose of imposing any penalty or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid;

(b) the Income-tax Act, Svt. 2007 (X of Svt. 2007), shall continue to have effect for the purposes of the levy, assessment and collection of income-tax and super-tax or for the purposes of any penalty, interest, composition-fee or any other demand under that Act in respect of any period prior to the previous year for the purposes of assessment under the Indian Income-tax Act, 1922 (XI of 1922), for the year ending on the 31st day of March, 1955.

(2) Without prejudice to the provisions contained in sub-section (1) and subject thereto, section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to the repeal of any of the laws referred to in section 5 as if the law so repealed had been an enactment within the meaning of section 6 of that Act.

7. Construction of references in any repealed law to officers, authorities, etc.—Any reference in any law of the State of Jammu and Kashmir now repealed by this Act to an officer, authority, tribunal or court shall, for the purpose of carrying into effect the provisions contained in clause (b) of sub-section (1) and sub-section (2) of section 6 be construed as a reference to the corresponding officer, authority, tribunal or court appointed or constituted by or under the corresponding Act, rule or order now extended to the State, and if any question arises as to who such corresponding officer, authority, tribunal or court is, the decision of the Central Government thereon shall be final.

8. Removal of difficulties.—If any difficulty arises in giving effect to any of the provisions of any of the Acts, rules or orders now extended to the State of Jammu and Kashmir, the Central Government may, by order published in the Official Gazette, make such provision or give such direction as appears to it to be necessary for removing the difficulty.

THE SCHEDULE

[See section 2(2)]

Year	No.	Short title	Amendments
1	2	3	4
1878	VIII	The Sea Customs Act, 1878.	In section 1, omit "except the State of Jammu and Kashmir". In section 3, omit clause (ee).
1922	XI	The Indian Income-tax Act, 1922.	In section 1, for sub-section (2), substitute— “(2) It extends to the whole of India.” In section 2, for clause (7A), substitute— “(7A) ‘Indian company’ means a company as defined in the Indian Companies Act, 1913 (VII of 1913), and includes a company formed and registered under any law in force in the merged territories or in any Part B State other than the State of Jammu and Kashmir before the extension thereto of the Indian Companies Act, 1913, and,

Year	No.	Short title	Amendments
1	2	3	4
			<p>in the case of the State of Jammu and Kashmir, any company formed and registered under any law in force in that State; provided that the registered office of the company in all cases is in the taxable territories".</p> <p>In clause (8), after the words "Central Government", insert "or in the State of Jammu and Kashmir, the State Government".</p> <p>In clause (14A),—</p> <p>(a) in sub-clause (J), omit the word "and" at the end;</p> <p>(b) after sub-clause (e), insert—</p> <p>"(f) as respects any period after the 12th day of April, 1954, the whole of the territory of India";</p> <p>(c) after clause (b) of the proviso, insert—</p> <p>"(c) the whole of the territory of India—</p> <p>(i) as respects any period, for the purposes of sections 4A and 4B;</p> <p>(ii) as respects any period after the 31st day of March, 1954, for any of the purposes of this Act; and</p> <p>(iii) as respects any period included in the previous year for the purpose of making any assessment for the year ending on the 31st day of March, 1955, or for any subsequent year."</p> <p>In section 4, in <i>Explanation</i> 4 to sub-section (1), omit "other than the State of Jammu and Kashmir".</p> <p>In section 7, omit sub-section (2).</p> <p>In section 14, in sub-section (2),—</p> <p>(i) omit the word "or" at the end of clause (b); and</p> <p>(ii) omit clause (c).</p> <p>In section 24, in sub-section (1),—</p> <p>(i) omit the first proviso; and</p> <p>(ii) in the second proviso, omit the word "further".</p> <p>In sub-section (2), omit clause (a) of the proviso.</p> <p>In section 49A, in clause (a), omit the words "with the Government of the State of Jammu and Kashmir or" and for the words "in that State or in that country, as the case may be" substitute "in that country".</p> <p>In section 49B, in sub-section (2), omit "other than the Government of Jammu and Kashmir".</p> <p>In the proviso to section 60A, for the words and figures "after the 31st day of March, 1955", substitute "in the case of merged territories and Part B States other than the State of Jammu and Kashmir, after the 31st day of March, 1955, and, in the case of the State of Jammu and Kashmir, after the 31st day of March, 1959".</p> <p>In section 61, in sub-section (2), in clause (iv) (a), after the words "Jammu and Kashmir", insert "or before the 14th day of May, 1954, in the State of Jammu and Kashmir".</p>
1924	XIX	The Land Customs Act, 1924.	In section 1, omit "except the State of Jammu and Kashmir".
1926	III	The Government Trading Taxation Act, 1926.	In section 2, in sub-section (3), omit "and 'India' means the territory of India excluding the State of Jammu and Kashmir".

Year 1	No. 2	Short title 3	Amendments 4
1934	XXXII	The Indian Tariff Act, 1934.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir".
1944	I	The Central Excises and Salt Act, 1944.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir". In section 2, omit clause (ee). Omit section 5. In section 37, in clause (iii) of sub-section (2), omit "the bringing of excisable goods into India from the State of Jammu and Kashmir, or".
1949	XXII	The Payment of Taxes (Transfer of Property) Act, 1949.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir". In section 2, for the words "the States", substitute "India", and omit the <i>Explanation</i> .
1953	34	The Estate Duty Act, 1953.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir". In section 50, omit "other than the State of Jammu and Kashmir".

STATEMENT OF OBJECTS AND REASONS

Under the Constitution (Application to Jammu and Kashmir) Order, 1954, issued on the 14th day of May, 1954, the Constitution of India has been applied to the State of Jammu and Kashmir subject to certain modifications and exceptions. By reason of the Order, Parliament is now empowered *inter alia* to make laws relating to Central taxes for that State. The object of this Bill is to extend to that State the taxation laws in force in the rest of India relating to income-tax and duties of customs and excise with the necessary modifications.

Under an agreement entered into between the Government of India and the Government of the State of Jammu and Kashmir, the State Government may continue to levy for a period of ten years the existing duty on motor spirit. Clause 3 of the Bill makes necessary provision in this behalf.

C. D. DESHMUKH.

NEW DELHI;

The 28th August, 1954.

FINANCIAL MEMORANDUM

The taking over of the staff now employed by the Government of Jammu and Kashmir on work relating to Customs, Central Excise and Income-tax, as a result of the extension of the Central taxation laws to that State will involve expenditure to the Government of India. The anticipated expenditure on the staff to be stationed within the State would be about Rs. 2·5 lakhs annually. No other expenditure is at present contemplated.

M. N. KAUL,

Secretary.